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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re BRITTANY B., a Person Coming  
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES  
AGENCY,

Plaintiff and Respondent,

v.

JAMES B., et al.,

Defendants and Appellants.

G041520

(Super. Ct. No. DP011526)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Caryl  
A. Lee, Judge. Affirmed.

Marsha F. Levine, under appointment by the Court of Appeal, for  
Defendant and Appellant James B.

Valerie N. Lankford, under appointment by the Court of Appeal, for  
Defendant and Appellant Sandra B.

Nicholas S. Chrisos, County Counsel, Karen L. Christensen and Jeannie Su,  
Deputy County Counsel, for Plaintiff and Respondent.

No appearance by the Minor.

James and Sandra B. appeal from an order terminating their parental rights over their 12-year-old daughter Brittany. They contend there is insufficient evidence to support the trial court's finding Brittany is adoptable, but we disagree and affirm the order.

### FACTS

Appellants are no strangers to the juvenile dependency system. In fact, they have been the subject of over 20 child abuse investigations dating back to before Brittany was even born. Sandra has a history of mental illness and drug abuse, and James has a criminal record and anger management issues. Not only have they been unable to provide Brittany and her four siblings with a safe and stable home, they have also inflicted a wide array of abuse on the children. For example, Sandra has punched Brittany at times and called her a "pussy sucker," "dike," "bitch" and "hoe." She also told Brittany, "I wish you were never born and that I had an abortion." James and his friends have made Brittany pose naked and perform sex acts, so they could get money to buy drugs.

In March 2005, the children were taken into protective custody after they were found with multiple bruises, scratches and red u-shaped marks on their bodies. Appellants were offered reunification services, and some 18 months into the case, the children were returned to their care under a family maintenance plan. During this period, Brittany, then age nine, spent five months in foster care with her current caretakers, the prospective adoptive parents. Brittany enjoyed staying at their home, and they enjoyed having her. However, James objected to the prospective adoptive parents taking Brittany to church, so she was placed in another foster home. Looking back on this initial placement with her prospective adoptive parents, Brittany later told a social worker, "I was so happy there. Why couldn't he (James) just let me be happy?"

Brittany spent the first five months of 2007 living with her family, but in June of that year, she was detained once again, due to appellants' physical and verbal

abuse. At that time, the parties stipulated Brittany was not adoptable, and she was placed in yet another foster home. She got along fine there for the most part, but sometimes she was fussy and irritable, and she did have some trouble making new friends and trusting others. She was also having considerable difficulty opening up and talking about her family in therapy.

Schoolwork was also a challenge. Due to a visual processing disorder, Brittany has long needed an individualized education plan and special assistance to help her with reading and writing. She also has a history of asthma, obesity, enuresis, heart murmurs, depression and ADHD. However, she has reached all of her physical, developmental and emotional milestones and is medically stable. She has no restrictions on her physical activity.

When asked in early 2008 about her placement preference, Brittany said she wanted to be returned to her prospective adoptive parents, because she had enjoyed living with them before. The prospective adoptive parents were very excited about this prospect. They prepared a special room for Brittany, filled it with gifts and were delighted when the court placed her with them in June 2008.

At that time, Brittany was just finishing fifth grade. Because of her learning disability, she was only able to read at the kindergarten level, and she sometimes had difficulty paying attention in school. However, her teacher described her as a loving and caring student who was very pleasant to have in class. She always tried her best and was considerate of others. Brittany's therapist reported she was "voicing her feelings more," "becoming more assertive" and making "wonderful progress" overall. And, according to her social worker, she was "thriving" in her new environment with her prospective adoptive parents. Accordingly, the court set a hearing for January 22, 2009, to decide on a permanent placement for Brittany.

In the months leading up to the hearing, Brittany continued to do well. The court reports stated she was bonding beautifully with her prospective adoptive parents

and their two other adopted children, and she was very anxious to complete the adoption process. So were the prospective adoptive parents. They said they were committed to making Brittany a part of their family and expressed a good understanding of her situation. The prospective adoptive mother told the social worker, “We are in this for the long haul and are not giving up on Brittany. We love her and she is part of our family.”

In September 2008, Brittany was hospitalized for chest pains. However, medical evaluations revealed no physical problems. As the chest pains surfaced right before a scheduled visit with appellants, Brittany’s therapist surmised they reflected Brittany’s anxiety over seeing her parents. Brittany has made it clear she does not wish to see appellants again and wants to “move on” with her life. In October 2008, she told her social worker, “I’m going forward[] and it feels good to go forward. I’m doing good in school. This is my best year ever. I’ve started out the year with A’s and B’s. . . . I have a whole bunch of friends. I am happy now.” Brittany’s prospective adoptive mother confirmed that Brittany was doing well in school, saying she “was passing all classes and . . . receiving mostly B’s, with a few A’s [and] C’s.”

Regarding Brittany’s prospects for adoption, the social worker reported: “Brittany is a very sweet, loving, beautiful girl. She has a big heart and is very caring towards others. Brittany is a forgiving person. She is willing to work problems out in relationships and doesn’t give up easily when things get difficult. Brittany is understanding of others that are struggling and relates well to other children that are going through difficult times. Brittany tries hard to do her best in everything she is involved in. She works extremely hard in school and . . . is playful and friendly, making many friends with other children at school.” She is “currently thriving in the prospective adoptive home and . . . doing well on every front.”

At the time of the permanency hearing in January 2009, the prospective adoptive parents’ home study had yet to be completed because the results of their FBI background check were still outstanding. However, the social worker’s preliminary

assessment of the prospective adoptive parents revealed they had no criminal record in California and had not been the subject of any child abuse reports. There had been two “Quality of Care” reports filed against them, involving alleged yelling incidents, but neither report was substantiated.

The social worker also reported that the prospective adoptive parents have extensive experience parenting children with special needs and have previously adopted two such children. When the social worker visited the home, these children appeared healthy and happy and it was evident the prospective adoptive parents had “accessed and put into place an array of supportive services in the home, community, and school, to aid in supporting the children’s special needs.” In addition, they made it clear “they are very fond of Brittany, and devoted to aiding her in addressing her special needs, and [are] committed to providing love and nurturing to her.”

At the permanent placement hearing, Brittany testified in no uncertain terms that she hated appellants and never wanted to see them again. She said, “I want to be adopted because at least I know I’ll be in a safe environment where I’m happy. When I was home (with appellants) I wasn’t happy [but] I’m happy now and I’m fine.” The court found Brittany was both specifically and generally adoptable, describing her as bright, energetic and healthy. Accordingly, it terminated appellants’ parental rights over her and freed her for adoption.

## DISCUSSION

Appellants contend there is insufficient evidence to support the court’s finding Brittany is adoptable. We disagree.

““The juvenile court may terminate parental rights only if it determines by clear and convincing evidence that it is likely the child will be adopted within a reasonable time. [Citations.] In making this determination, the juvenile court must focus on the child, and whether the child’s age, physical condition, and emotional state may make it difficult to find an adoptive family. [Citations.] In reviewing the juvenile court’s

order, we determine whether the record contains substantial evidence from which a reasonable trier of fact could find clear and convincing evidence that [the child] was likely to be adopted within a reasonable time. [Citations.]’ [Citations.] We give the court’s finding of adoptability the benefit of every reasonable inference and resolve any evidentiary conflicts in favor of affirming. [Citation.]” (*In re Gregory A.* (2005) 126 Cal.App.4th 1554, 1561-1562.)

Appellants argue Brittany has “a host of serious behavioral, emotional, and developmental problems” that render her unadoptable, and the only thing she has going for her in terms of adoptability is that her prospective adoptive parents have “expressed the desire to adopt her.” This is a gross distortion of the record.

Brittany’s prospective adoptive parents have done more than merely express an interest in adopting her. They took her in for five months in 2005, until James objected to the placement on religious grounds. During that time, they made Brittany feel so secure and content that she requested placement with them again in 2008. Upon learning of Brittany’s request, they expressed great excitement in having her back and prepared their home for her return. Although the results of their FBI check were not known at the time of the permanency hearing, they have no state criminal history, and the two “Quality of Care” complaints that were lodged against them were unsubstantiated. Their commitment to children is demonstrated by the fact they have previously adopted two special needs children, and they appear well suited to meet Brittany’s special needs. They also have expressed an unqualified resolve to advocate on Brittany’s behalf and to do everything in their power to ensure her continued happiness and development. Thus, it is hardly surprising Brittany has become bonded to them and thrived in their care since being returned to their home in June 2008.

We recognize Brittany is 12 years old and has some physical, emotional and educational problems. However, “[u]sually, the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor’s age,

physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent's willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent or by some other family.” (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649-1650, italics omitted.)

This is especially true in this case. Brittany has consistently met all of her developmental milestones and has no health restrictions. She is also doing well in school and making good progress in therapy. Appellants make much of the fact she showed considerable hostility toward them at the permanent placement hearing. However, as the trial court noted, those feelings likely stem from the fact that appellants mistreated her for years. Still, there is every indication that, in time, she will be able to work through the emotional trauma that appellants have caused her to endure. Throughout the record, Brittany is consistently described as a sweet, loving, considerate person, and she seems very determined not to let her past with appellants prevent her from leading a full and productive life.

Like many other children of neglectful and abusive parents, Brittany certainly has challenges ahead of her. However, she appears to be fully capable of meeting those challenges, and she has a very good support system in her prospective adoptive parents to help her do it. Viewing the evidence most favorably to the trial court's ruling, we find there is substantial evidence Brittany is likely to be adopted within a reasonable time. Therefore, we have no occasion to disturb the trial court's ruling.

DISPOSITION

The order terminating appellants' parental rights over Brittany and freeing her for adoption is affirmed.

BEDSWORTH, J.

WE CONCUR:

SILLS, P. J.

O'LEARY, J.